

## Inmates Paying the Cost of Their Incarceration

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### Issue

What is the law regarding inmates paying for the costs of their incarceration? This report updates [OLR Report 2006-R-0231](#). **This report has been updated by OLR Report [2022-R-0149](#).**

### Summary

State law requires the Department of Correction (DOC) commissioner to adopt regulations to assess inmates for the costs of their incarceration ([CGS § 18-85a](#)). Pursuant to this statutory requirement, the commissioner adopted regulations that require charging inmates for the costs of their use of various services and programs. An inmate is a person confined or formerly confined in a correctional facility under a sentence imposed by a Connecticut state court ([Conn. Agencies Regs. § 18-85a-1](#)).

The regulations define the per-inmate, per-day cost of incarceration at DOC facilities as the amount computed using the same accounting procedures the comptroller uses to calculate such costs for state humane institutions. The regulations also make inmates responsible for the costs of certain services and programs such as sick calls; dental procedures; eyeglasses; elective and vocational educational programs; and lab tests to detect illegal drugs, if the results are positive ([Conn. Agencies Regs. §§ 18-85a-1-4](#)).

The law gives the state a claim for the costs of incarceration against an inmate's property but it excludes certain types of property. In addition to other legal remedies, the attorney general can bring an action to enforce the claim in Superior Court in the Hartford judicial district at DOC's

request. The action must be brought within two years of the inmate's release from prison or within two years of his death if he dies while in DOC custody. This restriction does not apply to property that is fraudulently concealed.

According to the Office of Fiscal Analysis, DOC collected \$5,669,687 in FY 15; \$5,728,194 in FY 16; \$4,778,428 in FY 17; and \$6,465,907 in FY 18 in assessed incarceration costs.

## **Inmates' Duty to Pay for Programs and Services**

The regulations specify that the inmate's responsibility to pay for the use of services and programs is governed by the following schedule:

1. elective education programs: \$3.00 per course;
2. vocational-education programs: \$3.00 per course;
3. sick call (inmate-initiated visits): \$3.00 per visit;
4. dental procedures: \$3.00 per procedure;
5. eyeglasses: \$3.00 per prescription; and
6. laboratory tests taken to detect illegal use of drugs where results are positive: actual cost of confirmation test ([Conn. Agencies Regs. § 18-85a-3](#)).

## **Property Subject to the State's Claim**

The law gives the state a claim for incarceration costs against any property owned by an inmate except for:

1. property the inmate acquired after he or she was released from incarceration;
2. property acquired for work performed during incarceration as part of a program designated or defined in DOC regulation as a job training, skill development, career opportunity, or enhancement program (but the DOC commissioner may assess a participation fee);
3. money from a contract for reenacting the inmate's violent crime in various media (such as movies and books) or from the expression of the person's thoughts or feelings about the crime which by law must be paid to the Office of Victim Services; and
4. property that is statutorily exempt from execution to satisfy court judgments and exempt property of a farm partnership.

But the claim does apply to:

1. lottery and pari-mutuel winnings after the person's release from prison;
2. his or her estate, inheritance, and lawsuit proceeds won within a certain period after his release from prison; and
3. certain federal, state, or municipal pension, annuity, insurance contracts, and similar items that are for government employee retirement benefits (subject to the rights of an alternate payee under a qualified domestic relations order); and
4. property acquired for work performed during incarceration at a pilot program for inmate labor in private industry ([CGS § 18-85a](#)).

### ***Lawsuit Proceeds***

Whenever a person who owes the state money for the costs of incarceration wins a lawsuit judgment, the state's claim is a lien against the proceeds. The maximum amount of the claim is the full cost of the inmate's incarceration or 50% of the proceeds, minus certain expenses, whichever is less.

The incarceration lien has priority over all other claims, including any state lien for repayment of public assistance, except:

1. child support obligations the state can collect in public assistance repayments from a person's lawsuit proceeds (by law these funds must first reimburse Medicaid for coverage related to injuries that were the basis of the lawsuit);
2. expenses of the lawsuit, including attorney's fees;
3. hospitalization costs connected with the lawsuit not paid by insurance or other benefits;
4. physicians' fees associated with the hospitalization that the state has not paid for and that insurance or other benefits do not cover;
5. court-ordered restitution or compensation to a crime victim; and
6. payment of a civil judgment to a crime victim.

The proceeds are assignable to the state. The lien requires the inmate's attorney to pay DOC from the proceeds. But, if the attorney gives DOC written notice of a settlement or judgment that requests the lien amount, and DOC does not provide it within 45 days, then the attorney can distribute the proceeds to the inmate and is not liable to the state.

This provision applies to lawsuits brought within 20 years of the person's release from incarceration ([CGS § 18-85b\(a\)](#)).

### ***Inheritance***

When a person who owes the state money for the costs of incarceration inherits property or money, the state's claim is a lien against the inheritance for the total cost of incarceration or 50% of the inheritance, whichever is less. There is no reduction in this amount. The probate court must accept any lien notice that DOC files and, to the extent the estate has not already been paid out, order the estate distributed accordingly.

This provision applies to inheritances within 20 years of the person's release from incarceration ([CGS § 18-85b\(b\)](#)).

### ***Death of Person Owing Costs of Incarceration***

When someone who owes the state money for the costs of incarceration dies, the state has a lien against the estate up to the total costs of incarceration to the extent the estate is not needed to support a surviving spouse, parent, or dependent children. The lien has priority over all other unsecured claims, including public assistance liens, except for:

1. child support obligations the state can collect in public assistance repayments;
2. up to \$375 for the expenses of his last sickness;
3. state payments of up to \$1,200 for funeral and burial expenses to a person who received state supplement or temporary family assistance;
4. court-ordered restitution or compensation to a crime victim;
5. payment of a civil judgment to a crime victim; and
6. administrative expenses, including probate taxes and fees and fiduciary fees up to certain limits. If the deceased inmate has a prepaid funeral arrangement, the funeral and burial exception amount must be reduced by the amount of the arrangement.

The law allows priority for fiduciary fees, based on the value of the estate, only up to certain limits. It allows 5% on the first \$2,000; 4% on the next \$8,000; and 3% on the excess over \$10,000. The probate court, after a hearing with a 10-day notice to DOC, can authorize payment above these levels for extraordinary services.

If the estate has paid any amount exceeding these limits, the person who received it must repay the estate, and the state can recover the amount with interest at the legal rate by civil suit.

This provision applies to the estate of someone who dies within 20 years of his or her release from incarceration ([CGS § 18-85c](#)).

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